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11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

14 ARTHUR LEE ALFRED, II et al.,
15 Plaintiffs,
16 v.
17 WALT DISNEY PICTURES,
18 Defendant.

Case No. 2:18-CV-08074-CBM-ASx

**DECLARATION OF JORDAN D.
SEGALL IN SUPPORT OF
DEFENDANT WALT DISNEY
PICTURES' *EX PARTE*
APPLICATION TO EXTEND TIME
FOR, AND PROVIDE GUIDANCE
REGARDING, PLAINTIFFS' FACT
DEPOSITIONS**

Judge: Hon. Consuelo B. Marshall
Ctrm.: First Street Courthouse 8D

Filed Concurrently: Ex Parte
Application and Memorandum of Points
and Authorities; Declaration of Seth
Weinger; [Proposed] Order

DECLARATION OF JORDAN D. SEGALL

I, Jordan D. Segall, declare as follows:

1. I am an attorney at Munger, Tolles & Olson LLP, counsel of record for Defendant Walt Disney Pictures (“WDP”) in the above-captioned matter. I have personal knowledge of the facts stated in this declaration. If called as a witness in this action, I could and would testify competently to the facts stated in this declaration. I make this declaration in support of WDP’s *Ex Parte* Application to Extent Time For, and Provide Guidance Regarding, Plaintiffs’ Fact Depositions.

9 2. As the correspondence attached hereto demonstrates, the parties have
10 been engaged in meet-and-confer regarding the depositions at issue in this
11 Application since June 14, 2022. Pursuant to Local Rule 7-19.1, on June 22, 2022,
12 in an email sent at 11:25 a.m., I informed Plaintiffs' counsel that WDP would file
13 this *ex parte* Application. *See Exhibit 4 at 33.* Plaintiffs' counsel responded that,
14 because Plaintiffs do not intend to take Mr. Weinger's deposition under any
15 circumstances, any Application "would be inappropriate and unnecessarily burden
16 the Court." *Id.* at 29.

17 3. On June 23, 2022, in an email sent at 2:25 p.m., I reiterated that WDP
18 planned to file an *ex parte* Application to resolve all outstanding disputes over
19 Plaintiffs' desire to take the depositions of Mr. Weinger, Mr. Stenson, and Mr.
20 Oman. *See Exhibit 9.*

21 4. Attached as **Exhibit 1** to this declaration is a true and correct copy of
22 Plaintiff's Notice of 30(b)(6) Deposition of Defendant Walt Disney Pictures
23 (Topics: 1-37) in this action, which was served on WDP on May 23, 2022.

24 5. Plaintiffs' 30(b)(6) deposition notice noticed 37 total topics for
25 testimony by corporate designees, covering virtually every aspect of the case and
26 spanning more than a 20-year period. After Plaintiffs served the notice, WDP
27 diligently analyzed the dozens of topics and attempted to identify the witness or
28 witnesses who could competently testify regarding the noticed topics.

1 6. WDP determined that two 30(b)(6) designees would be necessary, with
2 one designee handling all of the topics other than financial, damages, and
3 accounting topics, and a second designee with more specialized financial and
4 accounting expertise handling those topics.

5 7. WDP further determined that the individual who was by far best-suited
6 to offer competent testimony on the financial, damages, and accounting topics, and
7 who could most efficiently prepare to testify on those topics, was WDP's Senior
8 Vice President, Content Finance, Seth Weinger.

9 8. Attached as **Exhibit 2** to this declaration is a true and correct copy of
10 email correspondence between counsel on which I was copied. The top-most
11 message in the email chain is from Rose Ehler to Patrick Arenz and others, dated
12 June 8, 2022, at 9:55 p.m.

13 9. In Ms. Ehler's June 8, 9:55 p.m. email in Exhibit 2, Ms. Ehler
14 explained that Seth Weinger would be designated on the financial 30(b)(6) topics,
15 and explained that, because of prior commitments, Mr. Weinger was not available
16 for a deposition until the week of June 27th. Ms. Ehler explained that,
17 notwithstanding the close of fact discovery, WDP would make Mr. Weinger
18 available for an in-person or remote deposition on June 29, 2022.

19 10. Attached as **Exhibit 3** to this declaration is a true and correct copy of
20 email correspondence between counsel on which I was copied. The top-most
21 message in the email chain is from Rose Ehler to Patrick Arenz et al., dated June 13,
22 2022, at 9:03 a.m.

23 11. Attached as **Exhibit 4** to this declaration is a true and correct copy of
24 email correspondence between counsel on which I was copied. The top-most
25 message in the email chain is from Patrick Arenz to me, dated June 22, 2022, at 1:10
26 p.m.

27 12. The correspondence in Exhibit 4 reflects that WDP repeatedly offered
28 to enter into a stipulation that would have proposed a limited extension of the fact

1 discovery schedule to accommodate Plaintiffs' desire to take the depositions of
2 Stenson, Oman, and Weinger as 30(b)(6) designee. For example, WDP made that
3 offer expressly in emails dated June 14, 2022 at 9:41 p.m. (pages 35–36 of Exhibit
4); June 16, 2022 at 11:25 p.m. (pages 33–34 of Exhibit 4); and June 22, 2022 at
5 11:35 a.m. (pages 29–32 of Exhibit 4). Plaintiffs repeatedly refused that offer,
6 stating they would forego taking these depositions in favor of later seeking to
7 exclude the witnesses and/or other evidence at trial. *See* Ex. 4 at 32 [Arenz 6/21
8 6:06 a.m. email] (“[W]e are prepared to close fact discovery on June 27 and let the
9 Court decide what evidence is admissible and what is not based on this record[.]”);
10 *id.* at 29 [Arenz 6/22 1:10 p.m. email].

11 13. Attached as **Exhibit 5** to this declaration is a true and correct copy of
12 excerpts from the deposition of Jerry Bruckheimer, taken by Plaintiffs in this action
13 on March 22, 2022.

14 14. Attached as **Exhibit 6** to this declaration is a true and correct copy of
15 excerpts from the deposition of Brigham Taylor, taken by Plaintiffs in this action on
16 March 24, 2022.

17 15. Attached as **Exhibit 7** to this declaration is a true and correct copy of
18 WDP's Supplemental Rule 26(a)(1) Initial Disclosures in this action, dated June 13,
19 2022.

20 16. On June 14, 2022, the day after WDP served its supplemental initial
21 disclosures, Plaintiffs' counsel Patrick Arenz called my colleague, WDP's counsel
22 Kelly Klaus, on the telephone. Based on my discussions with Mr. Klaus, I
23 understand that Mr. Arenz stated that, if WDP was reserving the right to call
24 Stenson and Oman at trial by listing them in its supplemental initial disclosures,
25 Plaintiffs wanted an opportunity to take their depositions, potentially after the fact
26 discovery cutoff if necessary. Mr. Arenz further stated that he would make a
27 proposal to adjust the case schedule to accommodate Plaintiffs' desire to depose
28 Stenson and Oman.

1 17. Attached as **Exhibit 8** to this declaration is a true and correct copy of
2 an email from Plaintiffs' counsel Patrick Arenz to WDP's counsel Kelly Klaus and
3 others, on which I was copied, dated June 14, 2022 at 12:45 p.m.

4 18. In the email at Exhibit 8, Mr. Arenz proposed a global one-month
5 extension of the fact discovery period, without any limitations on the discovery the
6 parties could take in the extended period.

7 19. Attached as **Exhibit 9** to this declaration is a true and correct copy of
8 an email I sent to Plaintiffs' counsel on June 23, 2022 at 2:25 p.m.

9 20. Third parties Chad Oman and Mike Stenson, who were executives with
10 Jerry Bruckheimer Films at the time *Pirates of the Caribbean: The Curse of the*
11 *Black Pearl* was developed and produced, are both credited as executive producers
12 on the film. A full list of credits on *The Curse of the Black Pearl* is available on
13 IMDb at https://www.imdb.com/title/tt0325980/fullcredits/?ref_=tt_cl_sm. Neither
14 Oman or Stenson is a WDP employee or within WDP's control.

15 21. WDP received a copy of the final transcript of the deposition of Ted
16 Elliott on May 12, 2022.

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18 I declare under penalty of perjury under the laws of the United States of
19 America that the foregoing is true and correct.

20 Executed on this 23rd day of June, 2022, at Los Angeles, California.

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Jordan D. Segall